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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CRYSTAL PAYNE,

Plaintiff,

vs.

NAVIENT SOLUTIONS, INC.,

Defendant.

Case No.:

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

1. THE TELEPHONE
CONSUMER PROTECTION
ACT [47 U.S.C. § 227 et. Seq.]

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Crystal Payne (“Plaintiff”), through her attorneys, alleges the following against Defendant, Navient Solutions Inc., (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based upon the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. The TCPA is a federal statute that broadly regulates the use of automated telephone equipment. Among other things, the TCPA prohibits certain unsolicited marketing calls, restricts the use of

1 automatic dialers or prerecorded messages, and delegates rulemaking
2 authority to the Federal Communications Commission (“FCC”).

3 **JURISDICTION AND VENUE**

- 4 2. Jurisdiction of the Court arises under 47 U.S.C. §227 et seq. and 28 U.S.C.
5 1331.
6
7 3. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)* in that a substantial part
8 of the events or omissions giving rise to the claim occurred in this District.
9
10 4. Defendant transacts business here; personal jurisdiction is established.

11 **PARTIES**

- 12 5. Plaintiff is a natural person residing in Pomona, Rockland County, New
13 York.
14
15 6. Defendant is a Creditor engaged in the business of loan servicing with its
16 principal place of business located in Wilkes-Barre, PA. Defendant can be
17 served with process through Corporation Service Company, 80 State Street,
18 Albany, NY 12207-2543.
19
20 7. Defendant acted through its agents, employees, officers, members,
21 directors, heirs, successors, assigns, principals, trustees, sureties,
22 subrogees, representatives, and insurers.

23 **FACTUAL ALLEGATIONS**

- 24 8. Defendant is attempting to collect a debt from Plaintiff.
25

- 1 9. On or about March 24, 2016, Defendant began placing calls to Plaintiff's
2 cellular phone number (845) 598-6230.
- 3 10. Upon information and belief, the calls originated from the following
4 numbers: (386) 269-0513, (615) 432-4235, (716) 707-3376, (856) 242-
5 2510, (617) 762-5965; (202) 899-1326; (765) 637-0797; and (317) 550-
6 5609. These numbers are all owned and operated by Defendant.
- 7 11. On or about March 24, 2016 at 6:57 p.m. Plaintiff answered a call on her
8 cellular telephone from telephone number (386) 269-0513. Plaintiff
9 noticed there was an extended pause before the Defendant began speaking.
10
- 11 12. Defendant informed Plaintiff that it was attempting to collect a debt.
- 12 13. Plaintiff unequivocally revoked consent to be contacted any further
13 regarding this debt.
14
- 15 14. Between March 30, 2016 and May 3, 2016, Plaintiff was called
16 approximately seven (7) times after having unequivocally revoked consent
17 to be contacted on her cellular phone.
18
- 19 15. On or about May 9, 2016, Defendant was called no less than four (4) times
20 within a six (6) hour period. The last three calls were received within
21 twenty-nine (29) minutes of one another; 7:49 p.m., 7:50 p.m. and 8:18
22 p.m.
23
24
25

1 16. Plaintiff answered the last call she received at 8:18 p.m. and spoke to
2 Rebecca, a representative from Defendant, who attempted to intimidate
3 Plaintiff into making a payment.

4 17. On or about May 18, 2016, Ms. Payne was called no less than four (4)
5 times within a five (5) hour period after having unequivocally revoked
6 consent to be contacted on her cellular phone.

7 18. Between May 19, 2016 and June 27, 2016, Ms. Payne was called
8 approximately thirty-six (36) times after having unequivocally revoked
9 consent to be contacted on her cellular phone.
10

11 19. Upon information and belief, Defendant contacted Defendant at least fifty-
12 seven (57) times after Plaintiff unequivocally revoked consent to be
13 contacted on her cellular phone.
14

15 20. As a result of Defendant's conduct, Plaintiff has sustained actual damages,
16 including but not limited to, emotional and mental pain and anguish, and
17 invasion of privacy.
18

19
20 **COUNT I**

21 **(Violations of the TCPA, 47 U.S.C. § 227)**

22 21. Plaintiff incorporates by reference all of the above paragraphs of this
23 Complaint as though fully stated herein.
24
25

1 22. Defendant violated the TCPA. Defendant's violations include, but are not
2 limited to the following:

3 a) Within four years prior to the filing of this action, on multiple
4 occasions, Defendant violated TCPA 47 U.S.C. § 227 (b)(1)(A)(iii)
5 which states in pertinent part, "It shall be unlawful for any person
6 within the United States . . . to make any call (other than a call made
7 for emergency purposes or made with the prior express consent of the
8 called party) using any automatic telephone dialing system or an
9 artificial or prerecorded voice — to any telephone number assigned
10 to a . . . cellular telephone service . . . or any service for which the
11 called party is charged for the call.
12

13
14 b) Within four years prior to the filing of this action, on multiple
15 occasions, Defendant willfully and/or knowingly contacted Plaintiff
16 at Plaintiff's cellular telephone using an artificial prerecorded voice
17 or an automatic telephone dialing system and as such, Defendant
18 knowing and/or willfully violated the TCPA.
19
20

21 23. As a result of Defendant's violations of 47 U.S.C. § 227, Plaintiff is
22 entitled to an award of five hundred dollars (\$500.00) in statutory
23 damages, for each and every violation, pursuant to 47 U.S.C. §
24 227(b)(3)(B). If the Court finds that Defendant knowingly and/or willfully
25

1 violated the TCPA, Plaintiff is entitled to an award of one thousand five
2 hundred dollars (\$1,500.00), for each and every violation pursuant to 47
3 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

4 **WHEREFORE**, Plaintiff, Crystal Payne, respectfully requests judgment be
5 entered against Defendant, Navient Solutions Inc., a Delaware Corporation, for
6 the following:
7

8 A. Statutory damages pursuant to the TCPA, 47 U.S.C. § 227; and

9 B. Any other relief that this Honorable Court deems appropriate.
10

11 Respectfully submitted this 27th day of January, 2017.

12 **PRICE LAW GROUP, APC**

13
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